

**STATE OF VERMONT
DEPARTMENT OF LABOR**

**RULES FOR THE ADMINISTRATION AND COLLECTION OF THE
EMPLOYERS' HEALTH CARE PREMIUM CONTRIBUTION**

Section I. AUTHORITY

Issued by Authority of and under the provisions of Section 34 of Act 191 of the 2006 Session of the Vermont General Assembly, and codified as Chapter 25 of Title 21 of the Vermont Statutes Annotated. Specific authorization for this rule is codified as 21 V.S.A. § 2003(c).

Section II. APPLICATION

These rules are applicable to all employers (as that term is defined in Section III.3 below) having more than eight full-time equivalent employees. As of July 1, 2008, these rules will be applicable to all employers having more than six full-time equivalent employees. As of July 1, 2009, these rules will be applicable to all employers having more than four full-time equivalent employees.

IMPORTANT NOTE: The employer's health care premium contribution is intended to provide a partial source of funding for the Catamount Health plan. The payment of a premium contribution on behalf of an uncovered employee *does not necessarily entitle that uncovered employee* to enrollment in the Catamount Health plan. Enrollment in the Catamount Health plan is the responsibility of the individual, and is subject to income caps and additional individual contributions.

Section III. DEFINITIONS

1. Commissioner: The Vermont Commissioner of Labor.
2. Employee: Any individual, 18 years of age or older for all of a calendar quarter, employed full-time or part-time by an employer to perform services in this state, when such services fall under the definition of employment as that term is defined by section 1301(6) of Title 21 of the Vermont Statutes Annotated. It is the intent of this rule that employees used by an employer for purposes of the employer's health care premium contribution calculation will be substantially the same as the employees reported by an employer for purposes of complying with Vermont unemployment compensation law.

- a) Sole Proprietors are **not** considered employees.
 - b) Limited Liability Companies (LLCs) with a single member or manager are **not** considered employees.
 - c) LLCs with more than one member or manager are **not** considered employees if they elect partnership status for federal tax purposes.
 - d) LLCs electing corporate status for federal tax purposes **are** considered employees.
3. Employer: Any person who is required under subchapter 4 of chapter 151 of Title 32 of the Vermont Statutes Annotated to withhold income taxes from payments of income with respect to services, but shall not include the United States government.
4. Full-time equivalent (FTE): The number of employees expressed as the number of employee hours worked during a calendar quarter divided by 520. The FTE calculation is based on a 40-hour workweek. No more than one FTE may be assessed against an individual employee, regardless of the actual number of hours worked by that employee.

For the purpose of calculating FTEs, the phrase “hours worked during a calendar quarter” means hours worked during all pay periods in that quarter for which gross wages were reported as paid.

5. Uncovered Employee:
- a) An employee of an employer who does not offer to pay any part of the cost of health care coverage for its employees.
 - b) An employee who is not eligible for health care coverage offered by an employer to any other employees as defined by the health care plan offered by the employer; or
 - c) An employee who is offered and is eligible for coverage by the employer but elects not to accept the coverage and has no other health care coverage under either a private or public plan.
 - i. An employee who has health care coverage during any portion of a calendar quarter shall not be considered an uncovered employee for purposes of that quarter’s premium contribution.
 - ii. An employee who has enrolled in a health care coverage plan, but is not actually covered under such plan until a subsequent effective date of coverage, shall not be considered

an uncovered employee, provided such intervening period is no longer than six months.

6. Health Care Coverage: Catamount Health Care, Medicare, Medicaid, the Vermont health access plan (VHAP), Dr. Dynasaur, or private insurance or employer-sponsored coverage that includes both hospital and physician services.

Section IV: METHOD OF CALCULATING AND REPORTING HOURS WORKED BY UNCOVERED EMPLOYEES

1. Employers must report, on a quarterly basis, the total number of hours worked by each uncovered employee, as that term is defined in Section III. Reporting will be accomplished by means of Department of Labor Form C-101, the same form used by employers to report wage information for purposes of complying with Vermont's unemployment compensation law. Form C-101 has been modified to accommodate reporting wage information necessary for both health care premium contributions and unemployment compensation assessments.
2. Employers must file Form C-101 on or before the last day of the month following the end of the quarter.
3. Quarterly health care premium contributions are calculated in the following manner:
 - a) Add the total hours worked by all uncovered employees during the quarter.
 - i) For each salaried employee, use 520 hours a quarter;
 - ii) For each employee who worked in excess of 520 hours in the quarter, use 520 hours a quarter.
 - b) Divide the resulting number by 520 (representing one FTE, or full-time equivalent), and round down to the nearest whole number.
 - c) Subtract 8 (as of July 1, 2008 subtract 6; as of July 1, 2009 subtract 4).
 - d) Multiply the resulting number by the quarterly health care premium contribution, currently established as \$91.25. Starting in fiscal year 2009, this number will be adjusted annually by a percentage equal to any percentage change in premiums for Catamount Health for that fiscal year. The commissioner will notify employers of the new number annually.

4. A worksheet, attached to these rules as Appendix A, can be used to help calculate the total quarterly premium contribution. An online calculator is available at the Department of Labor's website. (insert URL once it is up)

Section V: RECORD KEEPING REQUIREMENT

On an annual basis, an employer who offers health care coverage must obtain, from each person in his or her employ who declines the employer's health care coverage, a declaration of health care coverage. Such declaration shall be on a form, document or secure electronic statement provided to each employee by the employer, and shall require each employee to state whether or not the employee has health care coverage. In the event the employee has health care coverage, the employee shall affirmatively acknowledge the existence of such coverage.

Declarations of coverage and records of reported uncovered employees shall be maintained in such a manner as required by law, and as to be reasonably available for review or audit by the commissioner, and shall be maintained for a minimum of four years.

Section VI: EMPLOYEE LEASING COMPANIES

In an employee leasing agreement between an employee leasing company and a client company, as those terms are defined in section 1031 of Title 21 of the Vermont Statutes Annotated, leased employees shall be considered employees of the client company for purposes of complying with the provisions of this rule.

Section VII: PENALTIES AND INTEREST

1. Failure to file a timely quarterly report, or failure to accurately report all hours worked by uncovered employees, shall subject an employer to a penalty consistent with section 1328 of Title 21 of the Vermont Statutes Annotated.
2. Failure to make timely payment of all health care premium contributions due shall subject an employer to the interest rates and collection methods set forth in section 1329 of Title 21 of the Vermont Statutes Annotated.

(last revised November 29, 2006)